

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KRISTIN A. OLIVER,

Plaintiff,

v.

CITY OF BERKLEY, a Municipal
Corporation, the BERKLEY PUBLIC
SAFETY DEPARTMENT, BRUCE
HENDERLIGHT, and BRENT SMITH,
jointly and severally,

Defendants.

No. 01-71689

HON. GEORGE CARAM STEEH
MAGISTRATE JUDGE SCHEER

CAROL A. McNEILAGE (P28084)
JOSEPH P. McCARROLL (P28083)
Attorneys for Plaintiff
27200 Lahser Road
Suite 200
P.O. Box 2207
Southfield, MI 48037-2207
(248)358-5180

MICHAEL D. RITENOUR (32485)
Attorney for Def. Brent Smith
400 Galleria Office Centre
Suite 550
Southfield, MI 48034
(248) 353-4450

JAMES I. DeGRAZIA (P22853)
Attorney for Defs. City of Berkley,
Berkley Public Safety Department
and Bruce Henderlight, only
4111 Andover Road, Suite 300E
Bloomfield Hills, MI 48302
(248) 433-2000

FILED
2003 MAR -3 P 1:06
U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PLAINTIFF'S SUPPLEMENTAL RESPONSE TO DEFENDANTS'
RENEWED MOTION FOR SUMMARY JUDGMENT

PROOF OF SERVICE

LAW OFFICES
KEPES, WINE &
MCNEILAGE, P.C.
27200 LAHSER ROAD
SUITE 200
P.O. BOX 2207
SOUTHFIELD, MI 48037

(248) 358-5180
FAX (248) 352-5490

58

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KRISTIN A. OLIVER,

Plaintiff,

v.

CITY OF BERKLEY, a Municipal
Corporation, the BERKLEY PUBLIC
SAFETY DEPARTMENT, BRUCE
HENDERLIGHT, and BRENT SMITH,
jointly and severally,

Defendants.

No. 01-71689

HON. GEORGE CARAM STEEH
MAGISTRATE JUDGE SCHEER

CAROL A. McNEILAGE (P28084)
JOSEPH P. McCARROLL (P28083)
Attorneys for Plaintiff
27200 Lahser Road
Suite 200
P.O. Box 2207
Southfield, MI 48037-2207
(248)358-5180

MICHAEL D. RITENOUR (32485)
Attorney for Def. Brent Smith
400 Galleria Office Centre
Suite 550
Southfield, MI 48034
(248) 353-4450

JAMES I. DeGRAZIA (P22853)
Attorney for Defs. City of Berkley,
Berkley Public Safety Department
and Bruce Henderlight, only
4111 Andover Road, Suite 300E
Bloomfield Hills, MI 48302
(248) 433-2000

PLAINTIFF'S SUPPLEMENTAL BRIEF IN RESPONSE TO DEFENDANTS'
RENEWED MOTION FOR SUMMARY JUDGMENT

NOW COMES Plaintiff by and through her attorneys and in supplemental response to
Defendants' Motion for Summary Judgment states as follows:

LAW OFFICES
KEPES, WINE &
MCNEILAGE, P.C.
27200 LAHSER ROAD
SUITE 200
P.O. BOX 2207
SOUTHFIELD, MI 48037

(248) 358-5180
FAX (248) 352-5490

Contrary to Defendant's position, sexual abuse by a police officer arising from traffic stops are not isolated incidents. Plaintiff will rely on information contained in a special report entitled "*Driving While Female: A National Problem In Police Misconduct*" authored by Samuel Walk and Dawn Irlbeck of the Department of Criminal Justice – University of Nebraska at Omaha from May of 2002, a copy of which is attached hereto as **Exhibit A**.

The report indicates that sexual abuse of female motorists are found in every part of the country. A review of national media statistics from 1990 to 2001 revealed hundreds of allegations and an average of over a dozen substantiated cases each year. The study reveals several patterns including parallels to racial profiling, failure of police departments to investigate allegations that come to their attention, failing to maintain an open and accessible complaint system, failure to have policies and procedures that insure close supervision and accountability of officers as well as the pervasive sexist culture within the police department, all of which are well established practices of the Berkley Police Department.


The high potential for sexual harassment by female citizens by male police officers is common knowledge within the law enforcement community. At the very least, there is a question of fact as to whether or not Defendant Henderlight and the City knew or should have known of the potential for sexual abuse by its police officers. Nonetheless, neither Chief Henderlight nor the City ever addressed these problems and, in fact, permitted them to fester by tolerating an atmosphere of high sexual energy within the department itself, by failing to provide officers with any guidance with regard to searching female prisoners, and by enforcing a policy which permits a male officer to search a female citizen without anyone else being present. All of these issues raise questions of fact as to whether the City of Berkley and Chief Henderlight may be held liable pursuant to 22 Sec. 1983.

LAW OFFICES
KEPES, WINE &
MCNEILAGE, P.C.
27200 LAHSER ROAD
SUITE 200
P.O. BOX 2207
SOUTHFIELD, MI 48037

(248) 358-5180
FAX (248) 352-5490

KEPES, WINE & McNEILAGE, P.C.

By:


CAROL A. McNEILAGE (P28084)
JOSEPH P. McCARROLL (P28083)
Attorneys for Plaintiff

DATED: March 1, 2003

LAW OFFICES
KEPES, WINE &
McNEILAGE, P.C.
27200 LAHSER ROAD
SUITE 200
P.O. BOX 2207
SOUTHFIELD, MI 48037

(24H) 358-5180
FAX (24H) 352-5490

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KRISTIN A. OLIVER,

Plaintiff,

v.

CITY OF BERKLEY, a Municipal
Corporation, the BERKLEY PUBLIC
SAFETY DEPARTMENT, BRUCE
HENDERLIGHT, and BRENT SMITH,
jointly and severally,

Defendants.

No. 01-71689
HON. GEORGE CARAM STEEH
MAGISTRATE JUDGE SCHEER

CAROL A. McNEILAGE (P28084)
JOSEPH P. McCARROLL (P28083)
Attorneys for Plaintiff
27200 Lahser Road
Suite 200
P.O. Box 2207
Southfield, MI 48037-2207
(248)358-5180

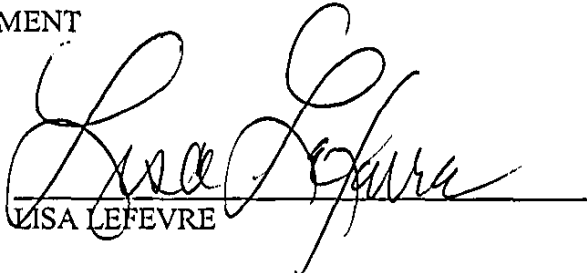
MICHAEL D. RITENOUR (P32485)
Attorney for Def. Brent Smith
400 Galleria Office Centre
Suite 550
Southfield, MI 48034
(248) 353-4450

JAMES I. DeGRAZIA (P22853)
Attorney for Defs. City of Berkley,
Berkley Public Safety Department
and Bruce Henderlight, only
411 Andover Road, Suite 300E
Bloomfield Hills, MI 48302
(248) 433-2000

PROOF OF SERVICE

LISA LEFEVRE states that on March 1, 2003, she served a copy of the following documents upon all counsel of record by faxing and placing said documents in envelopes addressed as above and depositing same with the U.S. Postal Service:

- PLAINTIFF'S SUPPLEMENTAL RESPONSE TO DEFENDANTS' RENEWED MOTION FOR SUMMARY JUDGMENT
- PROOF OF SERVICE.


LISA LEFEVRE

LAW OFFICES
KEPES, WINE &
MCNEILAGE, P.C.
27200 LAHSER ROAD
SUITE 200
P.O. BOX 2207
SOUTHFIELD, MI 48037

(248) 358-5180
FAX (248) 352-5490

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

**SEE CASE FILE FOR
ADDITIONAL
DOCUMENTS OR PAGES
THAT WERE NOT
SCANNED**